

Message Text

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E.O. 11652: N/A

TAGS: AORG, UN, WHO

SUBJECT:CONVENTION ON PRIVILEGES AND IMMUNITIES: TAX
EXEMPTION ON LUMP SUM PENSION PAYMENTS

REFS: (A) GENEVA 4679; (B) GENEVA 4681

1. WE HAVE CAREFULLY REVIEWED DIFFERING LEGAL POSITIONS ON
APPLICABILITY TO ONE-THIRD LUMP SUM PENSION PAYMENTS OF
SECTION 18 OF ARTICLE V OF CONVENTION ON PRIVILEGES AND
IMMUNITIES (AND COMPARABLE ARTICLE OF SPECIALIZED AGENCIES
CONVENTION). WE CONCLUDE (ALBEIT REGRETFULLY) THAT WEIGHT
OF INTERPRETATION AND PRACTICE ARE CLEARLY IN FAVOR OF
EXEMPTING THESE PAYMENTS. ACCORDINGLY, WE ARE RELUCTANT TO
SEEK HIGHER LEGAL OPINION (E.G., ICJ ADVISORY OPINION)

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WHICH WE BELIEVE WOULD SUSTAIN UN INTERPRETATION OVER THAT
OF WHO.

2. WE NOTE THAT IN ANY EVENT, U.S. CITIZENS ARE OBLIGATED
TO PAY FULL AND PROPER U.S. TAXES ON LUMP SUM WITHDRAWALS.

3. NEVERTHELESS, FROM POLICY VIEWPOINT, WE BELIEVE IT

ANOMALOUS THAT DIFFERING TYPE OF PENSION PAYMENTS, I.E.,
LUMP SUM AND ANNUITY PAYMENTS, (AND IN NO CASE COULD WE

AGREE TO TAX EXEMPTION OF ANNUITIES), ARE TREATED DIFFER-
ENTLY. WE ARE CURRENTLY EXPLORING WAYS OF ADDRESSING THIS
ANOMALY, SUCH AS: WITHDRAWAL OF PRIVILEGE OF LUMP SUM
PAYMENT; REDUCTION OF SIZE OF LUMP SUM PAYMENT BY BASING
IT UPON NET RATHER THAN GROSS SALARY (AS ARE LUMP SUM
LEAVE AND REPATRIATION PAYMENTS); RESTRICTING LUMP SUM
PAYMENT TO AMOUNT CONTRIBUTED BY EMPLOYEE TOWARD RETIREMENT.

4. IN CONCLUSION, WE ARE CONVINCED THAT LAW IS ON UN SIDE
ALTHOUGH POLICY CONSIDERATIONS FAVOR WHO POSITION. AS
INDICATED ABOVE, WE BELIEVE OUR ONLY POSSIBLE OPPORTUNITY
TO ADVANCE THESE POLICY CONSIDERATIONS IS THROUGH UN POLICY
CHANNELS. FOR THESE REASONS, WE SUGGEST MISSION STAY
CLEAR OF CCAQ DELIBERATIONS, PROVIDE NO INDICATION OF U.S.
LEGAL OR POLITICAL POSITIONS, AND, MOST PARTICULARLY,
REFRAIN FROM TAKING SIDES IN WHAT APPEARS TO US TO BE A
HIGHLY PERSONALIZED CASE OF AGENCY IN-HOUSE FIGHTING.

CHRISTOPHER

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